APPENDIX.

[Vide item IV (2) on page 510 supra.]

L.A. BILL No. 11 OF 1955.

(As passed by the Assembly.)

A Bill for the protection from eviction of cultivating tenants in certain areas in the State of Madras.

WHEREAS it is necessary to protect cultivating tenants in certain areas in the State of Madras from unjust eviction;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title, extent and duration.*—(1) This Act may be called the Madras Cultivating Tenants' Protection Act, 1955.

(2) It extends to the whole of the State of Madras, except—

(i) the districts of Malabar and South Kanara;

(ii) the Gudalur taluk of the Nilgiri district; and

(iii) the areas in which the provisions of the Tanjore Tenants and Pannaiyal Protection Act, 1952 (Madras Act XIV of 1952), are in force.

(3) It shall remain in force for a period of one year.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(*a*) " cultivating tenant " means a person who cultivates, by his own labour or by that of any other member of his family or by hired labour under his supervision and control, any land belonging to another, under a tenancy agreement, express or implied, and includes—

(i) any such person who continues in possession of the land after the determination of the tenancy agreement; and

(ii) the heirs of such person;

(*b*) " cultivation " means the use of lands for the purpose of agriculture or horticulture;

(*c*) " holding " means a parcel or parcels of land held by a cultivating tenant;

(*d*) " land " means land used for the purposes of agriculture or horticulture and includes any building, or any waste, vacant or forest land, appurtenant thereto, and any house-site belonging to the landlord and let to the cultivating tenant under the same agreement of tenancy;

(*e*) " landlord " in relation to a holding or part thereof means the person entitled to evict the cultivating tenant from such holding or part;

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(*f*) " Revenue Divisional Officer " means the Revenue Divisional Officer in whose jurisdiction the holding in question or part thereof is situate or an officer of the Revenue Department not lower in rank than the Revenue Divisional Officer, empowered by the State Government in this behalf.

3. *Landlords not to evict cultivating tenants.*—(1) Subject to the next succeeding sub-sections, no cultivating tenant shall be evicted from his holding or any part thereof, during the continuance of this Act, by or at the instance of his landlord, whether in execution of a decree or order of a Court or otherwise.

(2) Subject to the next succeeding sub-section, sub-section (1) shall not apply to a cultivating tenant—

(*a*) who, if in arrear at the commencement of this Act with respect to rent payable to the landlord and accrued due subsequent to the 31st March 1954, does not pay such rent within a month after the commencement of this Act or who, after the commencement of this Act, does not pay rent within a month after such rent accrues due; or

(*b*) who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon or has altogether ceased to cultivate the land; or

(*c*) who has used the land for any purpose not being an agricultural or horticultural purpose; or

(*d*) who has wilfully denied the title of the landlord to the land.

Explanation.—A denial of the landlord's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause.

(3) (*a*) A cultivating tenant may deposit in Court the rent or, if the rent be payable in kind, its market value on the date of deposit, to the account of the landlord—

(i) in the case of rent accrued due subsequent to the 31st March 1954, within a month after the commencement of this Act;

(ii) in the case of rent accrued due after the commencement of this Act, within a month after the date on which the rent accrued due.

(*b*) The Court shall cause notice of the deposit to be issued to the landlord and determine, after a summary enquiry, whether the amount deposited represents the correct amount of rent due from the cultivating tenant. If the Court finds that any further sum is due, it shall allow the cultivating tenant such time as it may consider just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing such further sum inclusive of such costs as the Court may allow. If the Court adjudges that no further sum is due, or if the cultivating tenant deposits within the time allowed such further sum as is ordered by the Court, the cultivating tenant shall be deemed to

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have paid the rent within the period specified in the last foregoing sub-section. If, having to deposit a further sum, the cultivating tenant fails to do so within the time allowed by the Court, the landlord may evict the cultivating tenant as provided in sub-section (4).

(c) The expression "Court" in this sub-section means the Court which passed the decree or order for eviction or, where there is no such decree or order, the Revenue Divisional Officer.

(4) (a) Every landlord seeking to evict a cultivating tenant falling under sub-section (2) shall, whether or not there is an order or decree of a court for the eviction of such cultivating tenant, make an application to the Revenue Divisional Officer and such application shall bear a court-fee stamp of one rupee.

(b) On receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Divisional Officer may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to have paid the rent under sub-section (3) (b). If the cultivating tenant fails to deposit the sum as directed, the Revenue Divisional Officer shall pass an order for eviction.

4. *Right to restoration of possession.*—(1) Every cultivating tenant who was in possession of any land on the 1st December 1953 and who is not in possession thereof at the commencement of this Act shall, on application to the Revenue Divisional Officer, be entitled to be restored to such possession on the same terms as those applicable to the possession of the land on the 1st December 1953.

(2) Nothing in sub-section (1) shall be deemed to entitle any such cultivating tenant to restoration of possession—

(i) if, on the day this Act comes into force, he is in possession, either as owner or as tenant or as both, of land exceeding the extent specified in the Explanation below or if he has been assessed to any sales-tax, profession-tax or income-tax under the respective laws relating to the levy of such taxes during 1953–54 or 1954–55; or

(ii) if the landlord, after evicting such cultivating tenant from the land, has been cultivating the land by his own labour or by that of any other member of his family or by hired labour under his supervision or control, provided as follows:—

(a) the total extent of land held by such landlord inclusive of the land if any held by him as a tenant does not exceed the extent specified in the Explanation below; and

(*b*) the landlord has not been assessed to any sale-tax, profession-tax or income-tax under the respective laws relating to the levy of such taxes during 1953–54 or 1954–55; or

(iii) if subsequent to the 1st December 1953, the landlord has *bona fide* admitted some other cultivating tenant to the possession of land and such other tenant has cultivated the land before the commencement of this Act :

Provided that where such other tenant is in possession, either as owner or as tenant or as both; of any other land which exceeds the extent specified in the Explanation below and the cultivating tenant who was evicted is not in possession of any land or is in possession of any other land which is less than the extent specified in the said Explanation, the cultivating tenant shall be entitled to restoration of possession.

Explanation.—The extent referred to in clauses (i) to (iii) above is 6-2/3 acres of wet land or dry land irrigated from any Government source of irrigation, which shall be taken to be equivalent to 20 acres of dry land not irrigated from any Government source of irrigation for the purpose of determining the extent of land in any case where it consists of one or more of the classes of land mentioned above.

(3) Every application to a Revenue Divisional Officer under sub-section (1) shall be made within thirty days from the commencement of this Act, and shall bear a court-fee stamp of one rupee :

Provided that the application may be received after the period of thirty days aforesaid, if the applicant satisfies the Revenue Divisional Officer that he had sufficient cause for not making the application within that period.

(4) On receipt of an application, under sub-section (3), the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant, if any, in possession of the land, to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it. In passing an order allowing the application, the Revenue Divisional Officer may impose such conditions as he may consider just and equitable including conditions in regard to—

(i) the payment by the applicant of any arrear of rent already due from him to the landlord, but not exceeding in amount one year's rent, and

(ii) the reimbursement by the applicant of the landlord or the other cultivating tenant in respect of the expenses incurred or the labour done by him during the period when the applicant was not in possession of any crop which has not been harvested, if an agreement is not reached between the parties as regards the rates and manner of such reimbursement.

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Explanation.—In lieu of imposing any condition relating to reimbursement as provided in clause (ii), the Revenue Divisional Officer may, in his discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being grown thereon at the time when the order is passed, has been harvested.

5. *Exclusion of time for limitation.*—In computing the period of limitation or limit of time prescribed for an application for the execution of a decree or order for the eviction of a cultivating tenant, the time during which he was protected by section 3 from eviction shall be excluded.

Explanation.—A decree or order shall be deemed to be a decree or order for the eviction of a cultivating tenant, notwithstanding that any other relief is also granted by such decree or order.

6. *Bar of jurisdiction of civil courts.*—No civil court shall, except to the extent specified in section 3 (3), have jurisdiction in respect of any matter which the Revenue Divisional Officer is empowered by or under this Act to determine and no injunction shall be granted by any court in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

7. *Power to make rules.*—(1) The State Government may, by notification in the *Fort St. George Gazette*, make rules to carry out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than fourteen days before both Houses of the State Legislature, as soon as possible after they are made, and shall be subject to such modifications whether by way of repeal or amendment, as those Houses may make during the Session in which they are laid.

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